

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EDWIN L. HARMON,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 3:14-cv-05869 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 27). Defendant has no objection to plaintiff's request (*see* Dkt. 29).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in

1 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*
2 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
3 to such agreement and will conduct an independent review to assure the reasonableness of the
4 fee requested, taking into consideration the character of the representation and results achieved.
5 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
6 fee agreement is the primary means for determining the fee, the Court will adjust the fee
7 downward if substandard representation was provided, if the attorney caused excessive delay, or
8 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
9 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

10 Here, the representation was standard, at least, and the results achieved excellent (*see*
11 Dkt. 27, Attachment 3). *See Grisbrecht, supra*, 535 U.S. at 808. Defendant stipulated to remand
12 the matter subsequent to plaintiff's filing of his Opening Brief (*see* Dkts. 22, 23), and following
13 remand, an Administrative Law Judge awarded benefits to plaintiff (*see* Dkt. 27, Attachment 2,
14 p. 1). There has not been excessive delay and no windfall will result from the requested fee.

15 Plaintiff's total back payment was \$31,416.99 (*see* Dkt. 27, Attachment 3, p. 2). Plaintiff
16 has moved for a net attorney's fee of \$1,854.25 (*see* Motion, Dkt. 27, p. 1), and the Court has
17 considered plaintiff's gross attorney's fee of \$7,118.91 and the EAJA award received by
18 plaintiff's attorney in the amount of \$5,264.66 (Dkt. 27, Attachment 6). *See Parish v. Comm'r.*
19 *Soc. Sec. Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

20 Based on plaintiff's motion and supporting documents (*see* Dkt. 27, Attachments 2, 3, 4,
21 5, 6), and with no objection from defendant (Dkt. 28), it is hereby ORDERED that attorney's
22 fees in the amount of \$7,118.91 be awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b),
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1 reduced by the EAJA fees of \$5,264.66, resulting in a net fee of \$1,854.25, to be sent directly to
2 plaintiff's attorney.

3 Dated this 5th day of December, 2016.

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6 J. Richard Creatura
7 United States Magistrate Judge
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